

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION AT DAYTON

UNITED STATES OF AMERICA,

Plaintiff,

vs.

DERIC EDMOND MARSHALL,

Defendant.

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Case No. 3:04cr186

3:08cv098

JUDGE WALTER HERBERT RICE

DECISION AND ENTRY ADOPTING REPORT AND RECOMMENDATIONS
OF UNITED STATES MAGISTRATE JUDGE (DOC. #47) IN THEIR
ENTIRETY, AND OVERRULING PETITIONER'S OBJECTIONS THERETO
(DOC. #48); JUDGMENT TO ENTER IN FAVOR OF PLAINTIFF AND
AGAINST DEFENDANT, DISMISSING THE DEFENDANT'S MOTION TO
VACATE, ETC., PURSUANT TO SECTION 2255, WITH PREJUDICE, AS
BARRED BY APPLICABLE STATUTE OF LIMITATIONS; CERTIFICATE OF
APPEALABILITY AND ANTICIPATED REQUEST TO APPEAL *IN FORMA*
PAUPERIS DENIED; TERMINATION ENTRY

Pursuant to the reasoning and citations of authority set forth by the United States Magistrate Judge, in her Report and Recommendations filed April 2, 2008 (Doc. #47), as well as upon a thorough review of this Court's file and the applicable law, said Report and Recommendations are adopted in their entirety. The Defendant's Objections to said judicial filing (Doc. #48) are overruled in their entirety. Judgment will be ordered entered in favor of Plaintiff and against Defendant, dismissing the Defendant's Motion to Vacate, etc., pursuant to Section

2255, with prejudice, as barred by the applicable statute of limitations.

Because reasonable jurists would not find this Court's opinion herein to be debatable, this Court denies a Certificate of Appealability and, further, given that any appeal from this Court's decision, while not subjectively frivolous, would be objectively so, this Court denies any anticipated request for leave to appeal *in forma pauperis*.

The captioned cause is hereby ordered terminated upon the docket records of the United States District Court for the Southern District of Ohio, Western Division, at Dayton.

/s/ Walter Herbert Rice

September 30, 2008

WALTER HERBERT RICE
UNITED STATES DISTRICT JUDGE

Copies to:

Deric E. Marshall, Pro Se